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RUEHLO/AMEMBASSY LONDON PRIORITY 3455
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 8946
RHEHNSC/NSC WASHDC PRIORITY
RUEHGV/USMISSION GENEVA PRIORITY 1055
RUEAIIA/CIA WASHDC PRIORITY
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C O N F I D E N T I A L KATHMANDU 002885

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SUBJECT: SUPREME COURT DECISIONS IMPROVE WOMEN'S RIGHTS AND
CHILD LABOR

REF: KATHMANDU 2649

Classified By: CDA Elisabeth I. Millard, reasons 1.4 (b)(d)

SUPREME COURT RULES ON TWO WOMEN'S PROPERTY CASES

11. (C) On December 15, the Supreme Court nullified a law that required married women wanting to sell their land to obtain consent from their husband, son, and unmarried daughters, and for unmarried women to get consent from their father and mother. The Court also issued a directive order for His Majesty's Government of Nepal (HMGN) to change a law that required women at the time of marriage to return any share of ancestral property to her maternal family. The directive order instructed HMGN to make a new law in consultation with stakeholders, non-government organizations (NGOs), and other experts. The Court cited Article 11, the right to equality, of the 1990 Constitution and the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) of 1979, which Nepal has signed and ratified. Raju Prasad Chapagain, the attorney from the public interest NGO Pro-Public who filed the case, said that the Court did not set a timeline for the enactment of a new law, but details may be included in the final text of the directive order which would come out in the coming weeks. He opined that, while the Court decision was positive, he did not think promoting gender justice was a high HMGN priority now and that the consultation process to make a new law may take one or two years.

LAWYER SAYS CASES HIGHLIGHT DISCRIMINATION AGAINST WOMEN

12. (C) Chapagain stated that the two Supreme Court decisions were important because they highlighted the fact that there is discrimination against women in Nepal. He commented that the two decisions would help empower women and could have long reaching impact. He said for example, a woman could now sell her own property without consent and could potentially use the proceeds of the sale to pay for higher education or as capital for entrepreneurial activities.

COURT NULLIFIES LAWS ON CHILD RECRUITMENT BY POLICE AND ARMY

13. (C) The Supreme Court also nullified laws that allowed the Royal Nepalese Army (RNA) to recruit boys aged 15-18 years and the Nepal Police to recruit boys aged 13-17 years of age.

Emboff learned from the RNA that their last known recruitment of boys under the age of 18 was fifteen 16-year-old boys recruited to be in the RNA's musical Band Company in non-combatant roles in 2002. The Band Company required prior musical experience to become a soldier in the Company at age 18. Sabin Shrestha, the lawyer from the NGO Forum for Women Law and Development who filed the case, said the practice of recruiting young boys under both laws ceased three years ago. He said that actions permitted under these laws could have been considered war crimes by the International Criminal Court. Shrestha said the Court decision was important because the laws were nullified, assuring that the recruitment of young boys by the RNA or Nepal Police could not legally happen again in the future.

COMMENT

14. (C) The women's property decisions follow the recent Supreme Court decision to allow women under 35 to obtain passports without their guardian's consent (reftel). These decisions are further evidence that the Supreme Court is working to address long-standing societal inequalities and grievances that the Maoists have exploited in their recruiting efforts.

MILLARD